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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

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UNITED STATES OF AMERICA

§

*versus*

§ CIVIL ACTION NO. 4:18CV163  
§ CRIMINAL ACTION NO. 4:12CR080

DIETRICK LEWIS JOHNSON

§

**MEMORANDUM ADOPTING REPORT AND  
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the Magistrate Judge pursuant to 28 U.S.C. § 636. On March 9, 2018, the report of the Magistrate Judge [Civ. Dkt. 4; Crim. Dkt. 97] was entered containing proposed findings of fact and recommendations that Defendant Dietrick Lewis Johnson’s “Motion for Leave, Requesting this Honorable Court for Permission to File a 60(b) Motion, Pursuant to [Federal Rule of Civil Procedure], to File Newly Discovered Evidence Regarding the [Movant’s] Actual Innocence,” construed as a motion to vacate, set aside or correct the sentence [Civ. Dkt. 1; Crim. Dkt. 88], be dismissed without prejudice.

Having received the report of the Magistrate Judge, and no objections thereto having been timely filed, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge’s report as the findings and conclusions of the Court.

Accordingly, it is **ORDERED** that Defendant Dietrick Lewis Johnson’s construed motion to vacate, set aside or correct the sentence [Civ. Dkt. 1; Crim. Dkt. 88] is **DISMISSED** without prejudice to Movant’s rights to file a motion for leave to file a second or successive § 2255 motion

in the United States Court of Appeals for the Fifth Circuit pursuant to 28 U.S.C. §§ 2244(b)(3)(A), 2255.

**IT IS SO ORDERED.**

SIGNED at Beaumont, Texas, this 11th day of April, 2018.



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MARCIA A. CRONE  
UNITED STATES DISTRICT JUDGE